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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/805,808	03/22/2004	Jeffrey R. Chalfant	36289US1	1072

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EXAMINER

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ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/805,808

Applicant(s)

CHALFANT, JEFFREY R.

Examiner

Phi D. A

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>3/22/04</u> . | 6) <input type="checkbox"/> Other: _____ |

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitation to the slot must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, 5-8, 14, 19, 21, 26-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Layne (4213279).

Layne shows a seal system comprising at least one dock pad (11, 14, 15), the pad comprising a backing material (16, figure 6) having a front portion and a rear portion, a first foam layer (15) coupled to the rear portion of the backing structure to provide a seal between a building surface and the dock pad, a second foam layer (14) coupled to the front portion of the backing structure (16) to provide a seal between the dock pad and a vehicle, the at least one dock pad comprising a theft deterrence component (col 2 lines 30-33) to substantially enclosed the second foam layer, a removable cover (col 2 lines 30-33) substantially covers exposed portion of the at least one dock pad, the cover comprising at least one of Vinyl (col 2 line 32), at least one of the first and second foam layers being formed from flexible foam, the foam layers being formed from polyurethane foam 9col 2 line 20), at least one mounting bracket (30) for coupling the at least one dock pad to the building, the bracket having one long leg and two short legs (30, figure 3), the theft deterrence component is secured to a first end portion of the backing structure (16), wrapped around the foam layer (14), and secured to a second end portion of the backing structure such that the foam layer is substantially enclosed by the theft deterrence component, means (15) for providing a substantially air tight seal between a dock pad and a building, means (14) for providing a seal between the dock pad and a rear portion of a vehicle, means (16) for providing rigidity to the pad, means (14a) for deterring theft.

3. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Richards Jr. (3818521).

Richards Jr. shows a seal system comprising at least one dock pad (inherently capable of functioning as claimed as a dock pad), the pad comprising a backing material (16', figure 9) having a front portion and a rear portion, a first foam layer (17B, col 2 line 56) coupled to the rear portion of the backing structure, a second foam layer (17A) coupled to the front portion of the backing structure (16), the at least one dock pad comprising a theft deterrence component (18) to substantially enclosed the second foam layer, the component being a metallic structure.

4. Claims 1-2, 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Digmann et al (2004/0226228).

Digmann et al shows a seal system comprising at least one dock pad (figure 4), the pad comprising a backing material (58, figure 4) having a front portion and a rear portion, a first foam layer (56, left) coupled to the rear portion of the backing structure to provide a seal between a building surface and the dock pad, a second foam layer (56 right) coupled to the front portion of the backing structure (58) to provide a seal between the dock pad and a vehicle, the at least one dock pad comprising a theft deterrence component (60) to substantially enclosed the second foam layer, the component being a mesh material.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Layne (4213279) in view of Hoffmann et al (2003/0177720)

Layne shows all the claimed limitations except for the first and second foam layers having a density of about 1-2lb/ft³.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Layne's foam layer to show the density being about 1-2 lb/ft³ because it would have been an obvious matter of engineering design choice to choose the foam layers having the density of 1-2 lb/ft³ as the density provides good compression strength for the pad, and a designer having ordinary skill in the art would know to choose the density for the material to achieve the desired compression strength; furthermore, applicant on pages 7-8 of the specification, discloses that any suitable density foam can be utilized and it reinforces the position that the claimed density is a matter of engineering design.

7. Claims 4, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Digmann et al (2004/0226228) in view of Minke et al (2003/0200714).

Digmann et al shows all the claimed limitations except for the component being a chain link fence.

Minke et al discloses a reinforcement material (36) being a chain link fence, metal mesh, chicken wire, grill cloth, aluminum screen mesh, expanded metal, polymeric mesh and other material (col 3 last 6 lines).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Digmann et al's component to show the component being a chain link fence because chain link fence, metal mesh, polymeric mesh etc... are available equivalent material for forming a reinforcement layer as taught by Minke et al.

8. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Layne (4213279).

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Layne shows all the claimed limitations except for the first and second foam layers having a density of about 1-2lb/ft³.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Layne's foam layer to show the density being about 1-2 lb/ft³ because it would have been an obvious matter of engineering design choice to choose the foam layers having the density of 1-2 lb/ft³ as the density provides good compression strength for the pad, and a designer having ordinary skill in the art would know to choose the density for the material to achieve the desired compression strength; furthermore, applicant on pages 7-8 of the specification, discloses that any suitable density foam can be utilized and it reinforces the position that the claimed density is a matter of engineering design.

9. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Layne (4213279).

Layne shows all the claimed limitations except for the first and second foam layers having a compression factor of about 30 lb.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Layne's foam layer to show the first and second foam layers having a compression factor of about 30 lb because it would have been an obvious matter of engineering design choice to choose the foam layers having the compression factor of about 30 lb as the compression factor provides good compression strength for the pad, and a designer having ordinary skill in the art would know to choose the compression factor for the material to achieve the desired compression strength; furthermore, applicant on pages 7-8 of the specification, discloses that any suitable density foam can be utilized and it reinforces the position that the claimed compression factor is a matter of engineering design.

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10. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Layne (4213279).

Layne shows all the claimed limitations except for the first and second foam layers having resilience from about +180F to about -50 F.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Layne's foam layer to show the first and second foam layers having a resilience from about +180F to about -50 F because it would have been an obvious matter of engineering design choice to choose the foam layers having the first and second foam layers having a resilience from about +180F to about -50 F as having the foam temperature range would enable a pad to properly function in the outside environment which can be very hot and very cold, and a designer having ordinary skill in the art would know to choose the foam having the temperature range as it ensures that the pad would be able to function properly outdoor; furthermore, applicant on pages 7-8 of the specification, discloses that any suitable density foam can be utilized and it reinforces the position that the claimed temperature range is a matter of engineering design.

11. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Layne (4213279) in view of Etlar (2704574)

Layne shows all the claimed limitations except for at least one of the foam layers being constructed of three-stage foam.

Etlar shows a door seal pad made of multiple stages of foam material to provide for good strength and compression ratio.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Layne's foam layers to show at least one of the foam layers being

constructed of three-stage foam because it would provide the pad with good strength and compression ratio for covering the back of a vehicle as taught by Etlar.

12. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Layne (4213279) in view of Frommelt (4718207)

Layne shows all the claimed limitations except for the backing material being constructed from steel.

Frommelt discloses a backing material (10) comprise of any suitable material such as wood or steel or the like (col 3 line 41).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Layne's backing material being constructed from steel because steel and wood are equivalence material for forming the backing material as taught by Frommelt.

13. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Layne (4213279).

Layne shows all the claimed limitations except for the two short legs having different lengths.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Layne's two short legs having different lengths because having a longer leg on the inside would allow for extra space for fastening more fasteners to backing members without having the fasteners showing on the other side and thus allowing the pad to be better secured without having the fasteners greatly negatively effecting the outside appearance of the pad.

14. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Layne (4213279).

Layne shows all the claimed limitations except for at least one mounting bracket being adjustable via a slotted aperture.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Layne's bracket having at least one slotted aperture for mounting the bracket (figure 3) to the wall because it is well known in the art that slotted aperture provides for easy mounting of brackets to a substrate as it allows for easy alignment of the bracket.

15. Claims 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Layne (4213279) in view of Frommelt et al (3230675).

Layne shows all the claimed limitations except for the at least one dock pad having a plurality of pleats.

Frommelt et al shows at least one dock pad having a plurality of pleats (7, 14) to bear the brunt of wear and tear occurring when the truck is loaded or unloaded or is backed against or driven away from the pads (col 2 lines 47-50).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Layne's pad to show a plurality of pleats because the pleats would provide further protection for the pad against tear and wear caused by trucks when loading and unloading and backing against and driven away from the pads as taught by Frommelt et al.

Per claim 18, Layne as modified shows all the claimed limitations and inherently shows the configuration of pleats depending on a type of exposure to the at least one dock pad.

16. Claims 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Layne (4213279).

Layne shows a seal system (figure 3) comprising at least one dock pad having a backing structure (17) and at least one foam layer (15), a plurality of mounting brackets (30) to secure the at least one dock pad to a building wherein each of the mounting brackets forming a U-shaped channel having one long leg and two short legs, the long leg of the bracket being secured to the building and the short legs being secured to the backing structure.

Layne does not show the two short legs having different lengths.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Layne's two short legs having different lengths because having a longer leg on the inside would allow for extra space for fastening more fasteners to backing members without having the fasteners showing on the other side and thus allowing the pad to be better secured without having the fasteners greatly negatively effecting the outside appearance of the pad.

Per claim 24, Layne as modified shows all the claimed limitations except for the brackets being manufactured from 6-20 gauge steel.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Layne's modified structure to show the brackets being manufactured from 6-20 gauge steel because 6-20 gauge steel would provide strong strength for the bracket to enable the bracket the pad and withstand the dynamic force of the vehicles; furthermore, it is considered well known in the art to have the pad bracket made of 6-20 gauge steel as it is known to provide sufficient strength for supporting the pad.

Per claim 25, Layne as modified shows all the claimed limitations except for each of the brackets having a slot formed therein.

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It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Layne's modified structure to show the brackets each having a slot because it is well known in the art that slotted aperture provides for easy mounting of brackets to a substrate as it allows for easy alignment of the bracket.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different docking seal device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Phi Dieu Tran A

3/4/06